

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:11-CT-3009-FL

MARLIN DOUGLAS SCOTT; JAMES)
PEARSON; and JOHNNY WESLEY)
ALLDRED, III,)

Plaintiffs,)

v.)

ALVIN W. KELLER, ROBERT C.)
LEWIS; BETTY BROWN; JOSEPH B.)
HALL; and TERRI STRATTON,)

Defendants.)

ORDER

Plaintiffs filed this action pursuant to 42 U.S.C. § 1983. The matter is before the court on plaintiffs' motion requesting disposition of the case (DE # 26), motion for copies (DE # 31), motion for misjoinder (DE # 36), and motion for extension of time (DE # 41). Also before the court is plaintiff James Pearson's ("Pearson") notice of voluntary dismissal (DE # 49). Defendants have not responded to plaintiffs' motions. In this posture, the issues raised are ripe for adjudication.

Beginning with Pearson's notice of voluntary dismissal, an action may be dismissed voluntarily by plaintiff without order of the court by filing a notice of dismissal at any time before service by the adverse party of an answer or a motion for summary judgment. See Fed. R. Civ. P. 41(a)(1). Otherwise an action shall not be dismissed on the plaintiff's request except upon an order of the court. See Fed. R. Civ. P. 41(a)(2). At this point, defendants have not filed any responsive pleadings. Accordingly, Pearson's action is DISMISSED without prejudice.

Plaintiffs' remaining motions were filed prior to the date they obtained counsel. Plaintiffs now are represented by counsel and are filing amended complaint. Accordingly, the court denies as moot plaintiffs' remaining pending motions without prejudice. Plaintiffs may re-file their motions through counsel.

In summary, Pearson's action is DISMISSED without prejudice. Plaintiffs' remaining motions (DE # 26), (DE # 31), (DE # 36), and (DE # 41) are DISMISSED without prejudice.

SO ORDERED, this the 14th day of December, 2011.



LOUISE W. FLANAGAN
United States District Judge